

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES “JARRETT” HANUS, KATIE HANUS, JOSEPH “J.R.” HUMPHRIES, TESS HUMPHRIES, JASON GREEN, LESLEE GREEN, and SARAH SMITH,
Plaintiffs,

VS.

ARKEMA, INC., RICHARD RENNARD,
RICHARD P. ROWE, ANDREW BURDETT,
BUREAU VERITAS NORTH AMERICA,
INC., and CENTERPOINT ENERGY INC.
Defendants.

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CIVIL ACTION NO. 4:19-cv-03102

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendant Arkema Inc. (“Arkema”) files this notice of removal on the basis of federal-question jurisdiction and makes the following statement of the grounds for removal:

I. PROCEDURAL HISTORY

1. On August 15, 2019, Plaintiffs filed an Original Petition and Request for Disclosure (the “Petition”) commencing this action, styled *James “Jarrett” Hanus, et al. v. Arkema, Inc., et al.*, Cause No. 2019-56602, in the 165th District Court of Harris County, Texas (the “State Action”).

2. Plaintiffs have asserted eight causes of action arising out of the same series of events, including an alleged violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), codified at 18 U.S.C. § 1964(c).

II. THIS CASE IS PROPERLY REMOVED TO THIS COURT

A. This Court has federal-question jurisdiction.

3. Under 28 U.S.C. § 1331, this is a “civil action arising under the . . . laws . . . of the United States.”

4. “[T]he question whether a claim ‘arises under’ federal law must be determined by reference to the ‘well-pleaded complaint.’ . . . The ‘vast majority’ of cases that come within this grant of jurisdiction are covered by Justice Holmes’ statement that *a ‘suit arises under the law that creates the cause of action.’*” *Merrell Dow Pharm., Inc. v. Thompson*, 478 U.S. 804, 808 (1986) (emphasis added and citations omitted).

5. Plaintiffs have alleged “a pattern of racketeering activity *under the civil and criminal Racketeer Influenced and Corrupt Organizations Act* (RICO),” and invoked “§ 1964(c).” Petition at 19 (emphasis added).

6. RICO is a federal law codified at 18 U.S.C. §§ 1961–1968, and it provides for a private cause of action under 18 U.S.C. § 1964(c).

7. Thus, this Court has original federal-question jurisdiction over the RICO claim and it is removable. 28 U.S.C. § 1331.

8. This Court has supplemental jurisdiction over the state-law claims because they are so related to the federal-law claim that they form the same case or controversy. 28 U.S.C. § 1367(a); *see also Destin v. Arkema Inc., et al.*, No. 19-1008, Dkt. No. 10 (Order Denying Motion to Remand) (S.D. Tex. April 26, 2019) (Hittner, J.) (holding, in a materially identical case: “[t]he Court finds it has federal question jurisdiction over the claim under RICO and supplemental jurisdiction over the claims for negligence, gross negligence, and negligence *per se*.”).

B. Arkema timely filed this notice of removal.

9. Plaintiffs have yet to serve any defendant in the State Action.

10. Under 28 U.S.C. § 1446(b), this notice of removal is being filed within 30 days after any defendant was served in the State Action, and is timely filed.

C. This Court is the appropriate venue for removal.

11. Removal is proper to this District and this division because the Houston Division of the Southern District of Texas is the district and division within which the State Action is pending. 28 U.S.C. § 1441(a).

D. All served Defendants consent to removal.

12. Arkema files this notice of removal. In addition, as of the date on which this notice is filed, Richard Rennard, Leslie Comardelle, Richard P. Rowe, Michael Keough, and CenterPoint Energy, Inc. have not been served in this action such that their consent is not required. *See* 28 U.S.C. § 1446(b)(2)(A) (requiring that only defendants properly joined *and* served must consent to removal (emphasis added)).

III. CONCLUSION

13. Based on the above, this action is removable to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

14. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81 of the United States District Court for the Southern District of Texas, the following documents are attached to this Notice of Removal as exhibits:

Exhibit A: All executed process in this case;

Exhibit B: All pleadings asserting causes of action, e.g., petitions, counterclaims, cross-actions, third-party actions, interventions, and all answers to such pleadings;

- Exhibit C: All orders signed by the state judge;
- Exhibit D: State court docket sheet;
- Exhibit E: Index of matters being filed; and
- Exhibit F: List of all counsel of record, including addresses, telephone numbers, and parties represented.

15. If any question arises as to the propriety of the removal of this action, Arkema requests the opportunity to present a brief with supporting documentation, if applicable, and oral argument in support of its position that this case is removable.

16. By filing this notice of removal, Arkema does not waive and hereby expressly reserves the right to assert any defense or motion available in this action pursuant to state or federal law after removal to this Court, including, but not limited to, objections regarding jurisdiction, venue, sufficiency of process or service of process, and the service of discovery.

WHEREFORE Arkema respectfully removes this action from the 165th District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

Respectfully submitted,

SCHIRMEISTER DIAZ-ARRASTIA BREM LLP

By /s/ Michael L. Brem

Michael L. Brem
State Bar No. 02952020
S.D. Texas Federal I.D. No. 13175
Pennzoil Place ~ South Tower
711 Louisiana Street, Suite 1750
Houston, Texas 77002
Telephone: (713) 221-2500
Facsimile: (713) 221-2525
Email: mbrem@sdablaw.com

**ATTORNEY-IN-CHARGE FOR DEFENDANT
ARKEMA, INC.**

OF COUNSEL:

Thomas Birsic
Pro Hac Vice Forthcoming
K&L GATES LLP
210 Sixth Avenue
Pittsburgh, Pennsylvania 15222
Telephone: (412) 355-6500
Facsimile: (412) 355-6501
Email: thomas.birsic@klgates.com

CERTIFICATE OF SERVICE

This is to certify that on August 19, 2019 a true and correct copy of the foregoing document was served upon all known counsel of record via the Court's CM/ECF electronic filing system.

/s/Michael L. Brem

Michael L. Brem